

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 16505 of 2014 (O&M)
Date of decision: 29.01.2015

Komal

... Petitioner

versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. I.S.Pabla, Advocate, for the petitioner.

Mr. Gaurav Goel, Assistant Advocate General, Haryana.

Mr. Mohinder Singh, Advocate
for respondent Nos.2, 3 and 4.

K.Kannan, J. (Oral)

The petitioner who sought the admission as a backward class candidate for MBA course was required to produce the proof of such status and filed an affidavit in the particular form Annexure V as prescribed in the prospectus. The petitioner had produced a certificate of backward class by the Government but did not produce the affidavit in the manner set forth in the Annexure P5. Consequently, the admission that was made to the petitioner was not against the seat reserved for the backward class candidate but admitted under the General Category. The implication was that the petitioner had to pay the high scale of tuition fee and other fees applicable to general candidates and the concession extended to reserved category could not be given.

The counsel produced before me the format in Annexure P5 which spells out the confirmation from the parent that she belongs to a particular caste included in the list of backward class as notified by the government and that further she or his spouse are not covered by the criteria fixed by the government for determining the creamy layer. This according to her was otiose, in that certificate itself contains all these details, namely, specification of the caste that falls within the list issued

by the government and the fact that the income does not qualify the person to be termed as falling within the creamy layer.

I would not find the argument to be acceptable. The proforma Annexure P5 is affirmation by a party of what she produced through independent document. The certificate issued by the Tehsildar or the income certificate issued by the same official, if found to be false, the consequence could be different from the failure of the party to produce an affidavit and the consequences of a false affidavit. If the document was not produced in the manner required and the admission was secured against the General Category then it means that the petitioner has literally cut into the chances of another candidate who could have been admitted in the General category. By shifting the petitioner to be taken as admitted in reserved category would also result to the financial loss to the Government who cannot admit another candidate by allowing the petitioner to swap his candidature for a reserved seat. It shall not to be, therefore, possible to accommodate the request in the manner sought for in the writ petition.

The specifications in the prospectus are never to be treated lightly. There can be no argument that the requirements of the format set out could be discarded and could filled up by some other means. I cannot allow for a deviation from what the prospectus or the application form requires. If there had been any lapse on the part of the petitioner to produce an affidavit in the manner required and she had gained in one category it shall not become possible to shift such a candidate to a reserved category and enable the petitioner to claim the benefit of a lower scale of fee. I will not find any reason for judicial intervention.

Writ petitioner is dismissed with above observations.

29.01.2015
Kumud

(K.KANNAN)
JUDGE

